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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,995

04/06/2004

Robert Anue

2994

43143

7590

04/27/2006

PATENTRY

300 MURCHISON DRIVE, SUITE 218

MILLBRAE, CA 94030

EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/708,995

Applicant(s)

ANUE, ROBERT

Examiner

Sarah Suereth

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 502.02 for signature requirements.

The oath or declaration is defective because:

Note that the signature must be followed with a forward slash (/), not a question mark.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 6-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Line 2 of claim 6 states that the frame has a "cylindrical wall", and line 1 of claim 10 states that the fuel tray has a "vertical wall", which are not described in the specification or evident in the drawings.
4. The lack of a prior art rejection for claims 6-10 does not indicate allowable subject matter.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wu 6739329.

Wu discloses a tray (22), a sleeve (23), and a frame (3) that functions in a first configuration in which the frame supports the tray and cook pot (21), the sleeve being positioned around the cook pot and the tray (Figure 3), functioning as a windscreen and heat reflector, and a second configuration in which the frame is wrapped around the cook pot, the tray, and the sleeve, holding the cook pot, try and sleeve together (Figure 5) for storage (col. 4, lines 58, 59).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1, 2, 3, 5, 11-14, 15, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate 6257125.

10. Pate discloses a tray (54, 58), and a frame (4) in which the frame supports (Figure 3) the tray, a sleeve (84), and cook pot (82) with an insulating band (read as the lid of part 82).

11. Regarding the limitation "functions in two configurations" in claim 1 e.g., the Pate apparatus is capable of holding a sleeve inside or outside the frame, as the geometry of the Pate apparatus is similar to applicant's.

12. Note that mere rearrangement of parts does not distinguish over the prior art (In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950), also MPEP 2144.04). Moving the location of the sleeve is an obvious variation of the Pate apparatus. Moving the position of the tray is also not a patentably distinct modification.

Regarding claims 2 and 3, Pate teaches the claimed invention with the exception of having a diameter suited to hold an empty aluminum can. The limitation "beer" in claim 3 is given no patentable weight, and a volume of 750 mL is given little patentable weight, because variations in size do not distinguish over the prior art. The courts have held that changing the dimensions does not distinguish over the prior art, and claiming specific dimensions when the prior art would perform the same function is not patentably distinct (In Gardner v. TEC Systems, Inc., 725 F.2d 1338, 220 USPQ 777

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(Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), also MPEP 2144.04)

13. Regarding claims 5 and 19, the frame comprises bent wire (col. 3, lines 11, 12) in a plurality of loops (20,50) surrounding a central horizontal member (52) smaller than the diameter of the cook pot with a plurality of protuberances (53) that extend beyond the circumference of the cook pot (Figure 3).

Regarding claim 11, the tray comprises a platform (54), and vertical suspension means (58), allowing fuel to be ignited below the cook pot (Figure 2).

Regarding claim 12, the top portion of the vertical suspension means (58) grasps the bottom of the cook pot, and holds it in place with a force (Figure 3).

Regarding claim 13, the top portion of the vertical suspension means (58) abuts the platform (52) at the bottom of the cook pot (Figure 3).

Regarding claim 15, the vessel is inherently capable of being inverted. Also, the term "light weight" is relative and the Pate device is considered to be light weight.

Claims 20 and 21 are rejected because the Pate apparatus performs the method steps as claimed.

14. Claims 4, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate in view of Tsai 5992407.

Pate does not disclose a sleeve that is flexible.

Tsai shows a cookstove having a sleeve (14), the sleeve being positioned around the cookstove (Figure 1), functioning as a windscreen and heat reflector (col. 1, line 7).

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Regarding claim 4, the sleeve is a self supporting, flexible cylindrical wall having an expandable opening providing air to the tray (Figure 1). The flexibility is evidenced by the fact that the screen can be folded (col. 1, line 14), and the expandable opening is evidenced by the fact that the sleeve can be repositioned (col. 1, line 13).

Claim 22 is rejected because the Pate in view of Tsai apparatus performs the method steps as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Pate apparatus with the windscreen of Tsai in order to be able to reposition the shield as the direction of the wind changes (col. 1, line 13).

### ***Conclusion***

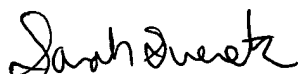
15. The prior art made of record on the attached form PTO-892 and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Monday to Thursday 7:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sarah Suereth  
Examiner  
Art Unit 3749

**EHUD GARTENBERG**  
**SUPERVISORY PATENT EXAMINER**

